IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CIVIL WRIT PETITION NO. 19004 OF 2005

DATE OF DECISION: January 15, 2007

Parties Name

Municipal Corporation, Faridabad

..PETITIONER

VERSUS

Presiding Officer, Labour Court and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASBIR SINGH
HON'BLE MR. JUSTICE BALDEV SINGH

PRESENT: Mr. M.K.Sood,
Advocate, for the petitioner.

Mr. Rohit Ahuja, Advocate, for respondent No. 2.

JASBIR SINGH, J. (oral)

Order.

This writ petition has been filed against the award dated October 16, 2001 (Annexure P-1), vide which respondent No. 2 -Workman was ordered to be reinstated along with continuity in service and 50% back wages. It is not in dispute that after passing of the award, respondent -Workman has been taken back in service. Counsel for the petitioner states that the award, passed by the Labour Court, cannot be sustained as the workman had not completed 240 days in service and as such there was no necessity of complying with the provisions of Section 25-F of the Industrial Disputes Act, 1947. We feel that the argument raised is liable to be rejected. The Court below, on analysis of evidence on record, has observed thus:

"14. WW-1 Ram Niwas has stated that he worked as Tubewell Helper from 1.1.96 to 31.12.96 under Ashok Rewat and

Virender Pahil J.Es. Testimony of WW-1 Ram Niwas is supported by (i) admission of MW-1 Virender Pahil that WW-1 Ram Niwas worked under him from 8.10.96 to 31.12.96 and (ii) admission of Ashok Rewat that WW-1 Ram Niwas worked under him from 1.1.96 to 29.3.96 and from 20.5.96 to 16.8.96.

15. The claimant has produced cogent and reliable oral and documentary evidence in support of his claim. The respondent has failed to discharge the burden of proving that the claimant did not work for more than 240 days during the period claimed by the claimant and the respondent has failed to challenge and rebut oral and documentary evidence produced by the claimant which must therefore be relied and acted upon and the claimant must be held to have proved his claim that he had completed more than 240 days continuous service under the respondent.

16. Admittedly the services of the claimant were terminated without service of notice and without payment of retrenchment compensation under Section 25-F of the Industrial Disputes Act, 1947."

Counsel for the petitioner has failed to show anything to the contrary with regard to the facts, mentioned above. It is apparent from the record that even the official witnesses had admitted that the workman had worked for more than 240 days and there is non-compliance with the provisions of Section 25-F of the Industrial Disputes Act, 1947. In view of this, no case is made out for interference.

So far as grant of back wages is concerned, we feel that it is somewhat on the higher side. As the petitioner – Management has complied

with the award in a very prompt manner, we feel that the payment of back wages can be reduced from 50% to 30%.

With above mentioned modification, this writ petition is disposed of. It is made clear that if the Management does not make payment of 30% back wages within six weeks from today, to that extent also this writ petition shall be deemed to have been dismissed.

(Jasbir Singh)
Judge

(Baldev Singh)
Judge

January 15, 2007.
DKC